



## MEMORANDUM

JUN 30 1995

TO: Jaime Garcia  
Ronald Kirstien  
Harvey Rothstein

cc: David Norman

FROM: John B. Ward, Jr.

DATE: June 29, 1995

RE: Chef Garcia *file*  
Trademark Registration

Gentlemen:

The following reports in summary fashion concerning the investigation of the availability of the name "Chef Garcia" as a trademark to be associated with the production and sale of Mexican food products. In short, although the name is not particularly unique, it appears available for purposes of such registration.

At the federal level, registrations exist utilizing the name "Garcia" in conjunction with Mexican foods. The names "Mama Garcia's" and "Andy Garcia Food Products" are registered marks in connection with the sale of Mexican food products, namely chorizo barbacoa and smoked sausage. A company entitled "Garcia's Mexican Restaurant" sells Mexican style food products such as tortilla chips, salsas and sauces under the registered trademark "Garcia's". The name "Garcia" is also utilized in connection with wines, restaurant services, and deciduous fruits. Where relevant, samples of the filings are attached for your information.

On the local level, in the jurisdictions of Maryland, Virginia, West Virginia, Delaware, District of Columbia, and Pennsylvania, the name "Garcia" appears available. Garcia's Mexican Restaurant, the company referred to above, has registered its mark in the State of New Jersey. Common law investigation suggests the availability of the name in the immediate vicinity, although it is unclear the extent of the scope of the sale of Garcia's restaurant products.

In short, it appears that the name is available and susceptible of registration. There is clearly, however, a basis for an argument by Garcia Restaurants that the mark would be confusingly similar to that of the restaurant label in connection with the very same products sold by the restaurant company.

We are presently obtaining updated versions of the federal trademark application, together with relevant materials from the surrounding jurisdictions.

JBW/bkb

